

IC 36-3-2

Chapter 2. Powers of Political Subdivisions in the County

IC 36-3-2-1

Application of chapter

Sec. 1. This chapter applies to political subdivisions in a county having a consolidated city.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-2

Consolidated city; home rule and taxation powers; annexation of territory

Sec. 2. (a) The consolidated city has home rule powers under IC 36-1-3, including all the powers that a first class city has according to law. In addition, the consolidated city has the power to levy and collect taxes on taxable privileges and to regulate those privileges.

(b) If the consolidated city wants to annex territory inside the county, it must do so in the manner prescribed by section 7 of this chapter.

(c) The consolidated city may not annex territory outside the county.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.16.

IC 36-3-2-3

Powers and duties of special service districts; administration of special service and special taxing districts; expansion of solid waste collection district

Sec. 3. (a) A special service district of the consolidated city:

- (1) may sue and be sued;
- (2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and
- (3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city or the county. The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a solid waste collection district as follows:

- (1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation.
- (2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.
- (3) After receiving the petition, the works board shall:

- (A) set a date for a public hearing;
 - (B) publish notice of the hearing in accordance with IC 5-3-1; and
 - (C) upon hearing the matter, determine whether the territory should be added to the district.
- (4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.
- (5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this section.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.17; Acts 1982, P.L.77, SEC.5; P.L.227-2005, SEC.20.

IC 36-3-2-4

Excluded city; home rule powers; annexation of territory

Sec. 4. (a) An excluded city has home rule powers under IC 36-1-3, including all the powers that municipalities of its class have according to law.

(b) An excluded city that wants to annex territory inside the county must do so in the manner prescribed by section 7 of this chapter.

(c) An excluded city that wants to annex territory outside the county may do so in any manner prescribed by IC 36-4-3.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-5

Included town; home rule powers; restrictions; annexation of territory

Sec. 5. (a) An included town has home rule powers under IC 36-1-3, including all the powers that municipalities of its class have according to law. However, an included town may not:

- (1) enforce an ordinance or regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or
- (2) issue general obligation bonds.

(b) An included town that wants to annex territory inside the county may annex only territory that is outside the corporate boundaries of the excluded cities in the county. This subsection applies notwithstanding IC 36-4-3-2; however:

- (1) the included town must follow the procedures prescribed by IC 36-4-3 for other annexations; and
- (2) all territory annexed under this subsection remains part of the consolidated city.

(c) An included town that wants to annex territory outside the county may do so in any manner prescribed by IC 36-4-3.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-6

Conservancy district; statutory powers; restrictions

Sec. 6. A conservancy district located wholly or partially inside the corporate boundaries of the consolidated city has all the powers granted it by statute. However, it may not:

- (1) enforce a regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or
- (2) issue general obligation bonds.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-7

Transfer of territory; procedure

Sec. 7. (a) This section governs the transfer of territory that is either:

- (1) inside the corporate boundaries of the consolidated city and contiguous to an excluded city; or
- (2) inside the corporate boundaries of an excluded city and contiguous to the consolidated city.

IC 36-4-3 does not apply to such a transfer.

(b) If the owners of land located in territory described in subsection (a) want to have that territory transferred from one (1) municipality to the other, they must file:

- (1) a petition for annexation of that territory with the legislative body of the contiguous municipality; and
- (2) a petition for disannexation of that territory with the legislative body of the municipality containing that territory.

Each petition must be signed by at least fifty-one percent (51%) of the owners of land in the territory sought to be transferred. The territory must be reasonably compact in configuration, and its boundaries must generally follow streets or natural boundaries.

(c) Each legislative body shall, not later than sixty (60) days after a petition is filed with it under subsection (b), either approve or disapprove the petition, with the following results:

- (1) Except as provided in subsection (g), if both legislative bodies approve, the transfer of territory takes effect:
 - (A) on the effective date of the approval of the latter legislative body to act; and
 - (B) when a copy of each transfer approval has been filed under subsection (f).
- (2) If the legislative body of the contiguous municipality disapproves or fails to act within the prescribed period, the proceedings are terminated.
- (3) If the legislative body of the contiguous municipality approves but the legislative body of the other municipality disapproves or fails to act within the prescribed period, the proceedings are terminated unless there is an appeal under subsection (d).

(d) In the case described by subsection (c)(3), the petitioners may, not later than sixty (60) days after the disapproval or expiration of the prescribed period, appeal to the circuit court. The appeal must allege that the benefits to be derived by the petitioners from the

transfer outweigh the detriments to the municipality that has failed to approve, which is defendant in the appeal.

(e) The court shall try an appeal under subsection (d) as other civil actions, but without a jury. If the court determines that:

- (1) the requirements of this section have been met; and
- (2) the benefits to be derived by the petitioners outweigh the detriments to the municipality;

it shall order the transfer of territory to take effect on the date its order becomes final, subject to subsection (g), and shall file the order under subsection (f). However, if the municipality, or a district of it, is furnishing sanitary sewer service or municipal water service in the territory, or otherwise has expended substantial sums for public facilities (other than roads) specially benefiting the territory, the court shall deny the transfer.

(f) A municipal legislative body that approves a transfer of territory under subsection (c) or a court that approves a transfer under subsection (e) shall file a copy of the approval or order, setting forth a legal description of the territory to be transferred, with:

- (1) the office of the secretary of state; and
- (2) the circuit court clerk of each county in which the municipality is located.

(g) A transfer of territory under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) A petition for annexation or disannexation under this section may not be filed with respect to land as to which a transfer of territory has been disapproved or denied within the preceding three (3) years.

(i) The legislative body of a municipality annexing territory under this section shall assign the territory to at least one (1) municipal legislative body district under IC 36-3-4-3 or IC 36-4-6 not later than thirty (30) days after the transfer of territory becomes effective under this section.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.5-1989, SEC.89; P.L.3-1997, SEC.452; P.L.123-2000, SEC.3.

IC 36-3-2-7.5

Connection of sewer and water service; waiver against remonstrance

Sec. 7.5. A landowner is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

- (1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.
- (2) A person other than the landowner or the municipality has paid the cost of connection to the service.

As added by P.L.172-1995, SEC.3.

IC 36-3-2-8

Services provided outside boundaries; service charge

Sec. 8. Whenever the consolidated city, or any of its special service districts or special taxing districts, provides services outside its boundaries, it may impose a service charge for installation and operating expenses, subject to IC 36-1-3-8(6).

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-9

Federal manpower program; approval to operate or be prime sponsor

Sec. 9. Before a political subdivision located within the corporate boundaries of the consolidated city may operate or be the prime sponsor of a federal manpower program, it must obtain the approval of both the executive and the legislative body of the consolidated city.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-2-10

Payments in lieu of taxes ("PILOTS"); consolidated city and county; public entities

Sec. 10. (a) The general assembly finds the following:

- (1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.
- (2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.
- (3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Personal property.
- (6) Property taxation.
- (7) Tangible property.
- (8) Township assessor.

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

- (1) An airport authority operating under IC 8-22-3.
- (2) A capital improvement board of managers under IC 36-10-9.
- (3) A building authority operating under IC 36-9-13.
- (4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

- (1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;
- (2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or
- (3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). The township assessors shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

- (1) operating and maintenance expenses;
- (2) payment of principal and interest on any bonded indebtedness;
- (3) depreciation or replacement fund expenses;
- (4) bond and interest sinking fund expenses; and
- (5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

As added by P.L.27-1992, SEC.27. Amended by P.L.93-1993, SEC.8.

IC 36-3-2-11

Ordinance requiring payment of PILOTS

Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

- (1) agreed upon by the property owner and the legislative body of the consolidated city;
- (2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and
- (3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

As added by P.L. 19-2000, SEC.2. Amended by P.L. 186-2001, SEC.9;

P.L.170-2002, SEC.140; P.L.179-2002, SEC.4; P.L.1-2003, SEC.98.